

NO. PD-0618-16

EX PARTE

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IN THE COURT OF

COURT OF CRIMINAL APPEALS

2/15/2017

CRIMINAL APPEALS

CLINTON DAVID BECK

AT AUSTIN, TEXAS

STATE'S LETTER OF ADDITIONAL AUTHORITIES

TO THE HONORABLE JUDGES OF SAID COURT:

Now comes the State of Texas, Appellee in the above-styled and -numbered cause, and files this its *Letter of Additional Authorities* which may be relevant to the points made in oral argument today:

Collins filed in the trial court a pleading in which she sought to quash the indictment and to obtain habeas corpus relief based upon her contentions that the indictment was faulty and that the statute under which she was indicted is unconstitutional.

Collins v. State, 479 S.W.3d 533, 536 (Tex. App.—Eastland 2015, no pet.) (*Collins* did not involve a *Karenev* preservation issue).

Shaw imagines a number of circumstances involving sexual conduct between *consenting adults* where she alleges [§ 21.12(a)(1) – sexual contact] would be applied unconstitutionally. *However, we cannot say the statute is impermissibly broad* when “judged in relation to the statute’s plainly legitimate sweep,” i.e., employees and students in primary and secondary schools, *when the vast majority of such students are undoubtedly not adults. The record before us contains no data about what percentage of secondary school students affected by this statute are adults.* Thus, even if this statute could be said to infringe on fundamental First Amendment rights of those students and employees who are of age, there is no evidence before us indicating Section 21.12 “reaches a substantial amount of constitutionally

protected conduct.” Accordingly, we reject Shaw’s contention that Section 21.12 violates the First Amendment by being overly broad.

In re Shaw, 204 S.W.3d 9, 15 (Tex. App.—Texarkana 2006, pet. ref’d) (emphasis added) (internal citations omitted).

Respectfully submitted,

/s/ Joshua D. Presley

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CERTIFICATE OF SERVICE

I, Joshua D. Presley, Assistant District Attorney for the State of Texas, Appellee, hereby certify that a true and correct copy of this *State’s Letter of Additional Authorities*, along with a copy of the case, has been delivered to Appellant CLINTON DAVID BECK’s attorneys in this matter:

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Counsel for Appellant on Appeal

By electronic service to the forgoing email addresses through efile.txcourts.gov, this 15th day of February, 2017.

/s/ Joshua D. Presley

Joshua D. Presley